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SENATE BILL 787

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

LEONARD TSOSIE

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICE COMMITTEE

AN ACT

RELATING TO MEDICAL MALPRACTICE; PERMITTING CITIZENS TO SUBMIT
CASES FOR CONSIDERATION BY THE NEW MEXICO MEDICAL REVIEW
COMMISSION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-5-14 NMSA 1978 (being Laws 1976,
Chapter 2, Section 14) is amended to read:

"41-5-14. MEDICAL REVIEW COMMISSION. --

A. The "New Mexico medical review commission" is
created. The function of the New Mexico medical review
commission is to provide panels to review all malpractice claims
against health care providers covered by the Medical Malpractice
Act.

B. Those eligible to sit on a panel shall consist of
health care providers [~~licensed pursuant to New Mexico law and~~]

Underscored material = new
[bracketed material] = delete

1 residing in New Mexico and ~~[the]~~ members of the state bar.

2 C. Cases ~~[which]~~ that a panel will consider include
3 all cases involving any alleged act of malpractice occurring in
4 New Mexico by health care providers qualified under the Medical
5 Malpractice Act.

6 D. ~~[An attorney shall submit]~~ A case shall be
7 submitted for the consideration of a panel, prior to filing a
8 complaint in any district court or other court sitting in New
9 Mexico, by addressing an application, in writing, signed by the
10 patient or his attorney, to the director of the New Mexico
11 medical review commission.

12 E. The director of the New Mexico medical review
13 commission ~~[will]~~ shall be an attorney appointed by and serving
14 at the pleasure of the chief justice of the New Mexico supreme
15 court.

16 F. The chief justice shall set the director's salary
17 and report the ~~[same]~~ salary to the superintendent in his
18 capacity as custodian of the patient's compensation fund."

19 Section 2. Section 41-5-19 NMSA 1978 (being Laws 1976,
20 Chapter 2, Section 19) is amended to read:

21 "41-5-19. HEARING PROCEDURES. --

22 A. At the time set for hearing, the ~~[attorney]~~ party
23 submitting the case for review shall be present and shall make a
24 brief introduction of his case, including a resume of the facts
25 constituting alleged professional malpractice ~~[which]~~ that he is

1 prepared to prove. The health care provider against whom the
2 claim is brought and its attorney may be present and may make an
3 introductory statement of its case.

4 B. Both parties may call witnesses to testify before
5 the panel, which witnesses shall be sworn. Medical texts,
6 journals, studies and other documentary evidence relied upon by
7 either party may be offered and admitted if relevant. Written
8 statements of fact of treating health care providers may be
9 reviewed. The monetary damages in any case shall not be a
10 subject of inquiry or discussion.

11 C. The hearing [~~will~~] shall be informal, and no
12 official transcript shall be made. Nothing contained in this
13 [~~paragraph~~] subsection shall preclude the taking of the
14 testimony by the parties at their own expense.

15 D. At the conclusion of the hearing, the panel may
16 take the case under advisement, or it may request that
17 additional facts, records, witnesses or other information be
18 obtained and presented to it at a supplemental hearing [~~which~~]
19 that shall be set for a date and time certain, not longer than
20 thirty days from the date of the original hearing unless the
21 [~~attorney~~] party bringing the matter for review [~~shall~~] consents
22 in writing [~~consent~~] to a longer period.

23 E. Any supplemental hearing shall be held in the
24 same manner as the original hearing, and the parties concerned
25 and their attorneys may be present. "

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Section 3. Section 41-5-22 NMSA 1978 (being Laws 1976, Chapter 2, Section 22) is amended to read:

"41-5-22. TOLLING OF STATUTE OF LIMITATION. --The running of the applicable limitation period in a malpractice claim shall be tolled upon submission of the case for the consideration of the panel and shall not commence to run again until thirty days after the panel's final decision is entered in the permanent files of the New Mexico medical review commission and a copy is served upon the claimant [~~and~~] or his attorney by certified mail."